

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ANDRE LEON BEAVERS, #812464	§	
VS.	§	CIVIL ACTION NO. 6:08cv85
DIRECTOR, TDCJ-CID.	§	

ORDER OF DISMISSAL

Petitioner Andre Leon Beavers, a prisoner confined in the Texas prison system, filed the above-styled and numbered petition for a writ of habeas corpus concerning a prison disciplinary proceeding involving possession of marijuana. The petition was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the lawsuit should be dismissed because the punishment imposed in the disciplinary case did not involve a liberty interest protected by the Constitution. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by the Petitioner are without merit.

The Petitioner argued in his objections that he should be granted relief because he is facing criminal charges for the offense. Federal courts may not consider pre-trial habeas corpus petitions from state prisoners unless all available state habeas corpus procedures have been exhausted. *See*

*Dickerson v. Louisiana*, 816 F.2d 220, 225 (5th Cir. 1987). Furthermore, even if state procedures have been exhausted, habeas corpus relief will not be available absent “special circumstances.” *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 489 (1973). In Texas, all claims must be presented to and ruled on by the Texas Court of Criminal Appeals. *Richardson v. Procnier*, 762 F.2d 429 (5th Cir. 1985). The Petitioner must pursue all of his pre-trial remedies available in state court before he may file a pre-trial petition for a writ of habeas corpus in this Court. Moreover, he must show “special circumstances” for this Court to consider a pre-trial petition for a writ of habeas corpus, and he has not satisfied that requirement in his pleadings or objections. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the petition for a writ of habeas corpus concerning a prison disciplinary proceeding is **DENIED** and the case is **DISMISSED** with prejudice. The Petitioner is free to pursue his pre-trial habeas corpus remedies regarding any criminal proceedings that may arise out of the facts of this case. It is further

**ORDERED** that a certificate of appealability is **DENIED**. It is finally

**ORDERED** that all motions not previously ruled on are hereby **DENIED**.

**So ORDERED and SIGNED this 2nd day of April, 2008.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**